

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

WP.No.4039/2021 & WMP.No.4612/2021

M.Vinoth

..Petitioner

Versus

1. The Commissioner
Corporation of Greater Chennai Corporation
Rippon Buildings,
Chennai 600 003.
2. The Zonal Officer-03
Madhavaram Zone - 03
Corporation of Greater Chennai
No.1, Thattankulam Street
Madhavaram, Chennai 600 060.
3. The Assistant Executive Engineer
Zone-03, Corporation of Greater Chennai
No.1, Thattankulam Street
Madhavaram, Chennai 600 060.

4.T.Pushparaj

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 to 3 to take action against the 4th respondent to remove the unauthorised construction made in the petitioner's property situated at Plot No.7 measuring 1525 sq.ft., in Survey No.15/2B at Moorthi Nagar, Kathirvedu Village, Madhavaram Taluk, Chennai 600 066 as per the Petitioner representation dated 16.12.2020.

For Petitioner : ***Mr.T.S. Somasundaram** for
Mr.M.Thamizhavel

For RR 1 to 3 : Mr.K.Raja Shrinivas
Standing counsel

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. through
Video Conferencing]

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) Mr. K. Raja Srinivas, learned Standing counsel accepts notice on behalf of respondents 1 to 3.
- (3) The petitioner would state that his father, viz., Thiru. A. Mani, was the absolute owner of the property in Plot No. 7, S. NO. 15/2B admeasuring to an extent of 1525 sq.ft., at Moorthy Nagar, Kathirvedu Village, Madhavaram Taluk, Chennai-66 and after his demise, all the legal heirs had succeeded to the estate and subsequently, the maternal grandmother also expired on 04.09.2020 and as on date, the joint patta exist in the name of the legal heirs bearing Patta No. 5237 and it remains as a vacant plot.
- (4) The learned counsel for the petitioner would submit that the petitioner has vested the said property during the month of July 2020 and found that the 4th respondent has not only encroached upon the said property, but also started putting up an unauthorised construction and in this regard, a complaint has also been given to M3 Puzhal Police Station, based on which, a CSR came to be issued on 29.09.2020. It is the further submission of the learned counsel for the petitioner that the 4th respondent has filed a civil suit in OS.No.149/2020 on the file of the Court of District Munsif, Madhavaram, against some of the legal heirs of the petitioner's father, praying for permanent injunction, restraining the defendants therein from interfering with the peaceful possession and enjoyment of the property and for mandatory injunction restraining the 5th defendant therein from disconnecting the electricity supply.
- (5) The learned counsel for the petitioner has drawn the attention of this Court to paragraph No.12 of the Plaint which speaks about the cause of action for filing the suit and would submit that admittedly, the vendor of the plaintiff-4th respondent herein had purchased the said property bearing Door No.18, Kathirvedu Village, comprised in S.No.15/2A1 admeasuring to an extent of 2243 sq.ft., through an unregistered Sale Deed and from whom the 4th respondent claimed to have purchased the property on 21.08.2017 and in the light of the said fact, the vendor of the 4th respondent do not have any title and as such, he cannot convey any better title in favour of the 4th respondent herein and as regards the unauthorised construction, a detailed representation dated 16.12.2020 has been submitted to respondents 2 and 3 and despite receipt and acknowledgment on 18.12.2020, no action whatsoever has been taken and therefore, the petitioner is constrained to approach this Court by filing this writ petition.

(6) Mr. K. Raja Srinivas, learned Standing Counsel appearing for respondents 1 to 3 would submit that as on date, no construction activity is going on and in the light of the representation submitted by the petitioner, inspection would be caused by the 2nd respondent in respect of the alleged unauthorised construction being put up by the 4th respondent and further action would follow depending upon the result of the inspection.

(7) This Court has considered the rival submissions and also perused the materials placed before it.

(8) Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 2nd respondent to put the petitioner as well as the 4th respondent on notice and thereafter, cause inspection of the alleged unauthorised constructing being undertaken by the 4th respondent and if the result of the inspection reveals any infraction / violation of the relevant provisions of law / Regulations, shall take immediate, necessary and appropriate action in accordance with law, by also adhering to the principles of natural justice and complete the said exercise as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order / uploading of the order in the website and communicate the decision taken, to the petitioner as well as to the 4th respondent herein.

(9) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS VII)

Dated: 12.03.2021

*** The name of the Counsel was corrected
as per letter dated 09.04.2021
given by the Counsel for the Appellant
sd/- Assistant Registrar (CS IX)
Dated: 15.06.2021**

//True Copy//

Sub Assistant Registrar

AP

To

1. The Commissioner
Corporation of Greater Chennai
Rippon Buildings,
Chennai 600 003.

To be Substituted to
the order already
despatched on 01.04.2021

2. The Zonal Officer-03
Madhavaram Zone - 03
Corporation of Greater Chennai
No.1, Thattankulam Street
Madhavaram, Chennai 600 060.

3. The Assistant Executive Engineer
Zone-03, Corporation of Greater Chennai
No.1, Thattankulam Street
Madhavaram, Chennai 600 060.

+1cc to Mr.M.Thamizhvel , Advocate SR.No. 11290

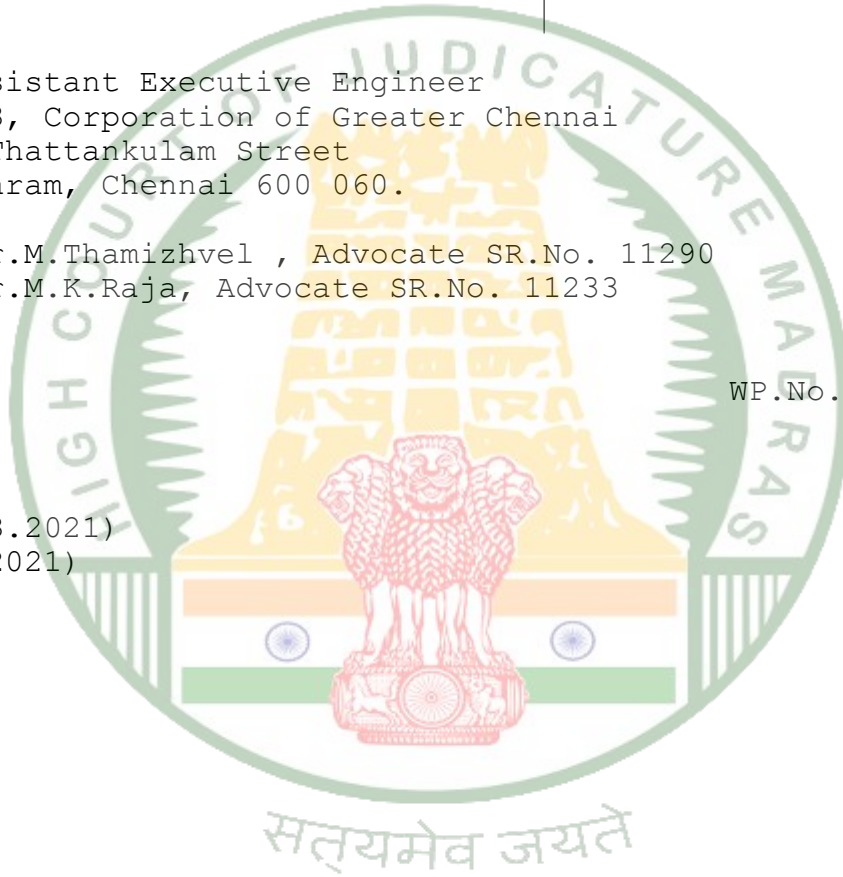
+1cc to Mr.M.K.Raja, Advocate SR.No. 11233

WP.No.4039/2021

GPL (CO)

A.SK(15.03.2021)

SP(15/06/2021)



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